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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/651,815	08/28/2003	Glenn A. Grosskopf	3351-012	9558

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EXAMINER

GEHMAN, BRYON P

ART UNIT PAPER NUMBER

3728

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/651,815

Applicant(s)

GROSSKOPF, GLENN A.

Examiner

Bryon P. Gehman

Art Unit

3728

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>8/28/03, 4/26/04</u> . | 6) <input type="checkbox"/> Other: _____  |

Art Unit: 3728

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-12 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, line 5 of the claim, "having grain" is ungrammatical. In line 9, "the top half" lacks antecedent basis. In lines 10-11, "said opening of the first portion of the housing" lacks antecedent basis for being so said.

In claims 2-12, line 1 of each, "clamshell blister pack" lacks antecedent basis.

In claim 12, line 3, "the products" lacks antecedent basis.

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 6, 13-14, 16 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Croce (4,781,294). Disclosed is a clamshell package comprising a first portion (22a or 22b) made from a tear-resistant material having a grain aligned in one direction and a second portion (24a or 24b) also made from a tear-resistant material having a grain aligned contrary to the grain of the first portion to provide resistance to

tearing in multiple directions, an opening (46 or 64) and a display chamber (between 22a and 24a or 48), polypropylene being commonly transparent.

As to claim 3, the prior art is made primarily from polypropylene, which applicant discloses is printable.

As to claim 14, Figures 8-10 disclose a pill blister pack.

5. Claims 17 and 19-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Lauterbach Jr.. Disclosed is a clamshell package housing comprising a display chamber (between members 20 and 30) being substantially seamless and opaque (polystyrene which comprises the layers being opaque), a first portion (20) of substantially tear-resistant material and a second portion (30), the portions having two substantially crossing grains (see Figures 2 and 3).

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-4, 6, 12-13, 16 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pirro et al. in view of Croce ('294). Claims 1-4, 6, 12-13, 16 and 19-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lind et al. in view of Croce ('294). Pirro et al. and Lind et al. each disclose a clamshell package comprising a

first portion (14; 1a) and a second portion (16; 1b), an opening (20; 4) and a display chamber (30; 10). Croce has been explained above. To modify the package of either one of Pirro et al. and Lind et al. employing the criss-crossing grain tear-resistant material arrangement of Croce would have been obvious in order to increase the tear resistance of the package, as disclosed by Croce.

As to claim 3, the prior art is made primarily from paperboard, which applicant discloses is printable.

As to claim 12, Pirro et al. and Lind et al. each disclose a slot (18; 3a, 3b, 13).

8. Claims 5-10 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art employed against claims 1 and 13 above and further in view of Beguhn (4,236,652). Beguhn discloses employing plastic coated paper board or other combinations (column 3, lines 22-53) to provide a tearing package. To employ the various combinations disclosed by Beguhn to provide the package of Croce would have been an obvious substitution of interchangeable materials. Some of the disclosed laminates are transparent, some are opaque. To employ well known SPS board as the paper board is not seen to provide any new and unobvious result.

9. Claims 11, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the art as applied to claims 8, 16 and 17, and further in view of Stoker Jr. (3,695,417). Stoker Jr. discloses graphics disposed on the exterior of a display chamber (see column 2, lines 6-12 and 37-43. To modify the display chamber of

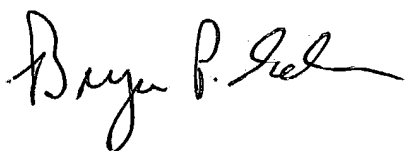
any of the prior art employed above employing the graphics teaching of Stoker Jr. would have been obvious in order to provide information relative to the contents.

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Shown are packages with tearing orientation.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryon P. Gehman whose telephone number is (571) 272-4555. The examiner can normally be reached on Monday through Wednesday from 5:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu, can be reached on (571) 272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-4555.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



BPG

Bryon P. Gehman  
Primary Examiner  
Art Unit 3728